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EXAMINER
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JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/847,701

Applicant(s)

TANAKA, KAZUYOSHI

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action has been re-generated in response to applicants identification on April 19, 2005 of an inadvertently omitted 35 USC § 103 rejection of Claim 10 in the Office Action dated April 26, 2005. The omitted 35 USC § 103 rejection of Claim 10 has been added (see Page 25), no further revisions have been made to Office Action of April 26, 2005.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Internet Based Product Concept Selection Utilizing Access Frequencies.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahan et al., The Predictive Power of Internet-Based Product Concept Testing Using Visual Depiction and Animation (1998) in view of Onoe et al., U.S. Patent No. 5,951,642.

Regarding Claim 1 Dahan et al. teach method for conducting product concept testing over the Internet (Abstract; Introduction, Page 1; Figure 1 as shown below) wherein the network marketing method can “reduce the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel” (Abstract) by understanding the product characteristics that address consumers wants and needs (“... attribute-based conjoint analysis explains a significant portion of the variability in product preferences...”, Paragraph 3, Page 2). More generally Dahan et al. teach that “One of the more challenging decisions faced by a new product development team is concept selection, the narrowing of multiple product concepts to a single, “best” design. A key input to this process is the predicted market performance of a product concept were it to be launched.” (Paragraph 1, Page 1).

More specifically Dahan et al. teach a network marketing method (market research, product concept evaluation and testing) comprising:

- making product information (data, size, color, shape, etc..) that may satisfy market needs available on a network page (home page, internet site, web page, etc.) before a company produces or sells the product (new products, product concepts; Abstract; Figures 3 and 4 as shown below);

- developing the product(s) concept(s) having the product configuration and/or characteristics (color, shape, performance, etc.) that represent the “best” design (concept, product) utilizing well know product development and evaluation techniques (e.g. conjoint analysis; “...prior to generating multiple product concepts, qualitative

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market research (e.g. focus groups or one-on-one customer interviews) is conducted, measurable product attributes are identified, and quantitative market research in the form of attribute-based conjoint analysis [4] is completed.", Paragraph 2, Page 2; Figure 1 as shown below); and

- selling the developed products on the market (profit maximization, market share predictions; Figure 1 as shown below; Pages 1-2 and 4; Table 5).

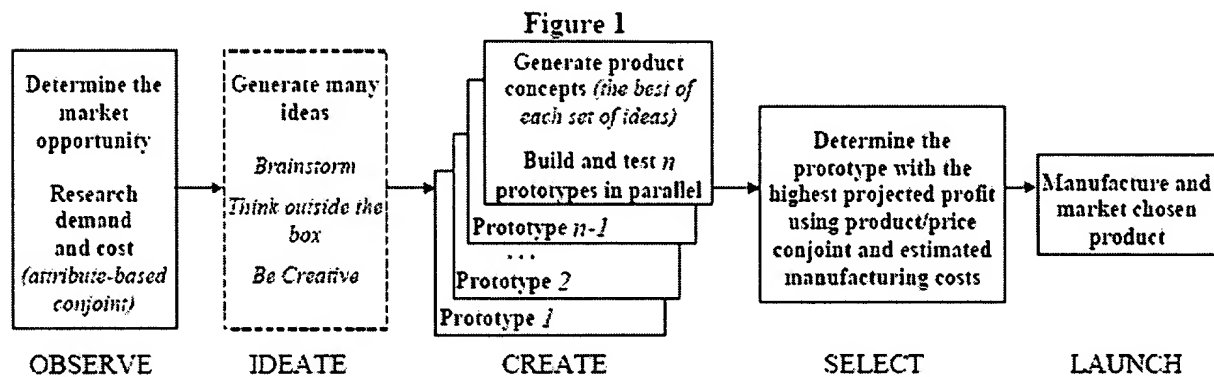


Figure 3: Web page used in Web surveys (WA and WS)

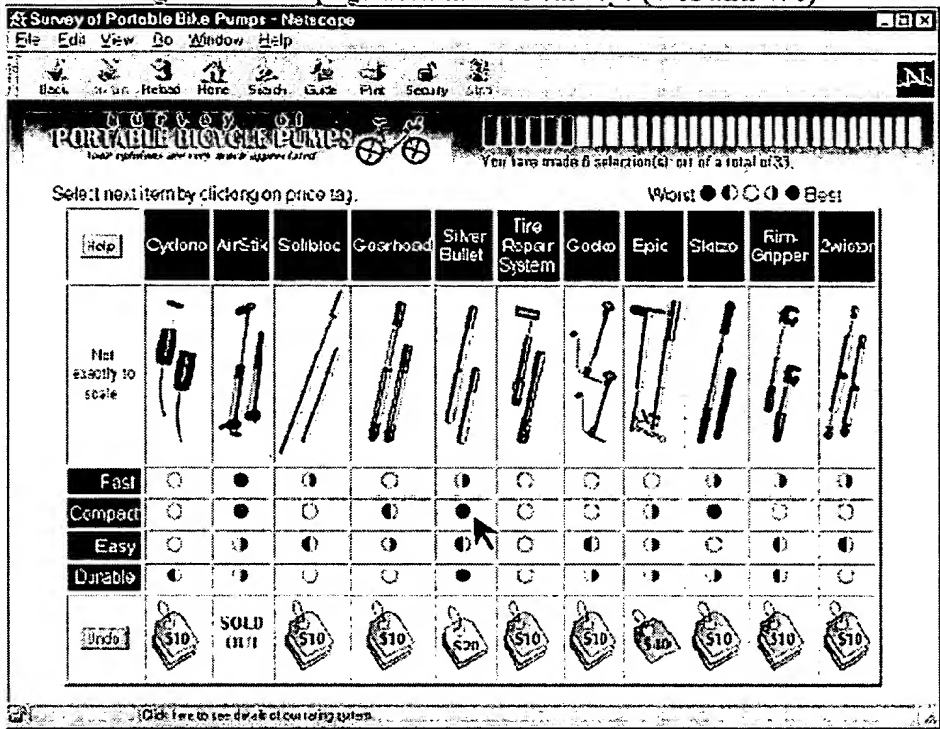
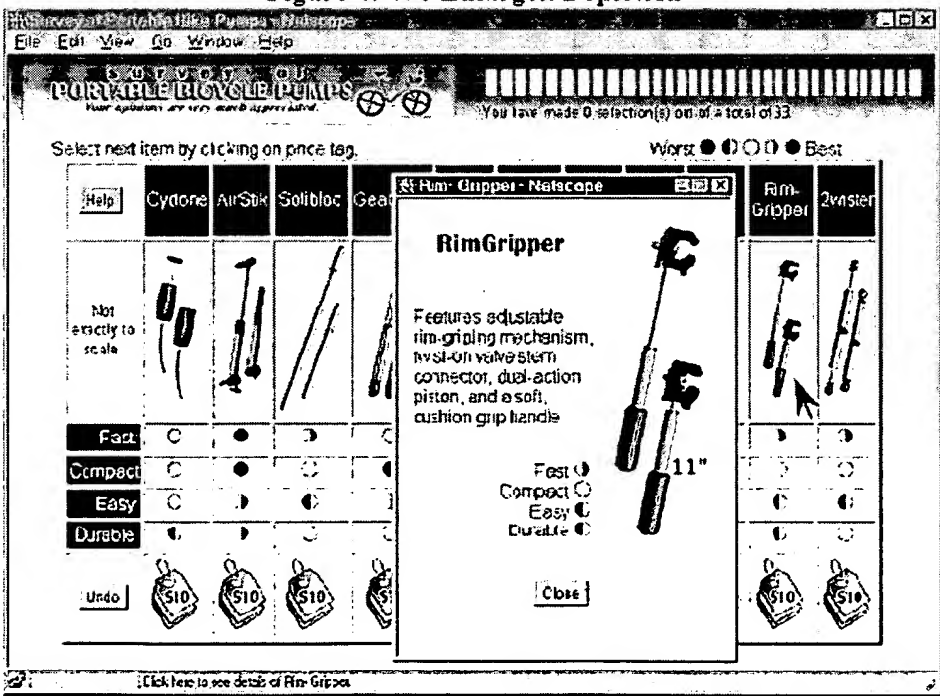


Figure 4: WS Enlarged Depiction



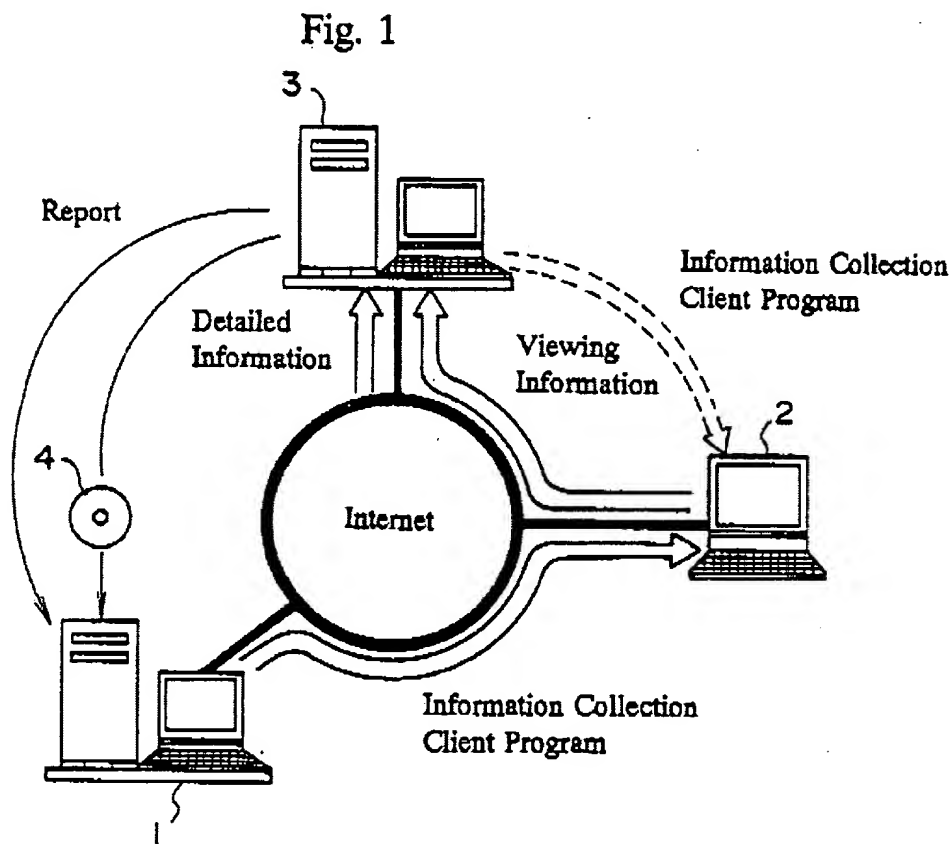
While Dahan et al. teaches the selection (pursuing, production, sale, etc.) of the “best” design Dahan et al. does not expressly teach selecting a product (concept, design, etc.) based on user access frequencies as claimed (i.e. selecting the product concept based on the number of times the product is viewed by users; the number of views being an indication/measure of the level of interest in the product concept being tested).

Onoe et al. teach a network marketing research system (tool) wherein a plurality of user information is collected, analyzed and reported on, including user access frequencies (Abstract) and that such information is better than other marketing research methods/techniques (“...obtain detailed information which could not be obtained through the market research method of counting the number of clicks or through questionnaires...”, Column 2, Lines 4-16). Onoe et al. further teach a system and method for capturing (collecting) and analyzing a plurality of Internet user information (e.g. surveys, emails, web page viewing, etc.) wherein the user information is stored and accessed from a database (information collector; Abstract; Column 2, Lines 4-16 and 38-68; Figure 1 as shown below).

Onoe et al. teach a network marketing research system wherein user information comprises data such as web page viewing statistics (viewing times, access frequencies, access time) and user demographic information (age, region, gender, etc.; Column 1, Lines 38-61; Column 2, Lines 4-16; Figures 2-6) and that this and other user information collected enables the system to analyze and investigate such things as “how many

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minutes were spent reading a page...which pages did not leave an impression...obtain detailed information which could not be obtained through the market research method of counting the number of clicks or through questionnaires" (Column 2, Lines 4-16; Column 3, Lines 1-46; Column 4, Lines 2-40; Column 13, Lines 9-68).



- 1 : Server of the Information Provider
- 2 : Client of the Information Viewer
- 3 : Server of the Information Collector
- 4 : Storage Medium



Fig. 3

Contents of the Data Base

Name of User	Access Time	URL (Address)
Jason	06/25/96 19:59:10	http://www.fujitsu.com
Judy	06/27/96 10:25:05	http://www.hypertak.com

Fig. 4(a)

Total Ranking  
Order of Total Access Time

Rank K	Total Time	Address
1	30 hours 15 minutes 45 seconds	http://www.fujitsu.com
2	24 hours 12 minutes 6 seconds	http://www.nec.com
3	22 hours 19 minutes 37 seconds	http://www.apple.com
4	7 hours 45 minutes 58 seconds	http://www.toshiba.com
5	3 hours 32 minutes 12 seconds	http://www.hp.com

Fig. 4(b)

Total Ranking  
Order of Total Access Frequencies

Rank K	Total Frequencies	Address
1	545 times	http://www.fujitsu.com
2	423 times	http://www.nec.com
3	265 times	http://www.apple.com
4	198 times	http://www.toshiba.com
5	14 times	http://www.hp.com

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing, with its application of well known product concept testing and evaluation techniques and method (e.g. statistical conjoint analysis of product characteristics), as taught by Dahan et al. would have utilized a plurality of marketing research tools, techniques and methods relating to

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product concept testing and evaluation including the ability to evaluate product concepts based on a plurality of user behaviors such as the amount of interest shown in a particular product concept (amount of time viewing product page) in view of the teachings of Onoe et al.; the resultant system providing market researchers additional information for gauging the potential market share (market success, market share, profit potential, sales, etc.) of the product concepts being evaluated and tested thereby further “reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel.” (Dahan et al.: Abstract).

Regarding Claim 2 Dahan et al. teach a network marketing research method and system that enables Internet-based product concept testing and evaluation as discussed above. Dahan et al. further teach that the product concept testing and evaluation system and method collects “...simple demographic data...” (Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) as well as the collection of demographic data Dahan et al. does not expressly teach the utilization of user demographic information as claimed (e.g. the development product for specific market segments, groups, or the like).

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Onoe et al. teach a network marketing research method and system wherein a plurality of user information, including user demographic information, is collected, analyzed and reported on (Column 2, Lines 40-68; Column 3, Lines 1-46; Column 4, Lines 1-40; Figures 3-4b as show above; Figure 11 as shown below) and that information is used to improve (change, evolve, etc.) the product, which in the case of Onoe et al. is the web site (Column 9, Lines 55-62; "These information viewers are prospective customers, and as such, they are in a position to fulfill an important role in the development of new products and services, determining how investments should be made...", Column 13, Lines 60-64).

Fig. 11

Ranking for Age Groups

Age Group Ranking: Top 5 in order of Total Frequencies and Total Time of Viewing

By Age Group of 25-36 Years Old

Rank-ing	Total Viewin Frequencies	Title	Total Viewin Time	Title
1	351 Times	Polical News	3 hours 03 minutes 12 seconds	Political News
2	284 Times	ABC Newspaper News	2 hours 23 minutes 34 seconds	ABC Newspaper News
3	264 Times	Sports News	2 hours 07 minutes 23 seconds	Economic News
4	120 Times	XYZ Daily News	1 hour 45 minutes 34 seconds	Sports News
5	45 Times	Economic News	37 minutes 55 seconds	XYZ Daily News

While Onoe et al. teach utilizing a plurality of user information including but not limited to user demographic information for improving a product Onoe et al. does not expressly teach the development of a set of products for a plurality of user segments.

Official notice is taken that the development of one or more products (services, product variations) for one or more market segments is old and well known in the art. Mass customization, personalization, one-to-one marketing and other such business strategies are utilized by many companies to provide custom/personalized products to consumers, for example web sites that are personalized for each individual based on their user profile (preferences, demographics, usage behavior, past purchases, etc.) are common and so is the business practice of creating "versions" of product which cater to various consumer segments one example being a Spanish-language version of a popular book or magazine to appeal to the Spanish speaking consumer segment.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have utilized a plurality of marketing research tools, techniques and methods relating to product concept testing and evaluation including the ability to evaluate product concepts based on a plurality of user demographic information in view of the teachings of Onoe et al.; the resultant system providing market researchers additional information for gauging the potential market share (market success, market share, profit potential, sales, etc.) of the product concepts being evaluated and tested thereby further

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“reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel.” (Dahan et al.: Abstract).

Further it would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing and evaluation as taught by Dahan et al. and further in view of the teachings of Onoe et al. would have been utilized to test and evaluate products which were targeted for specific customer (user) segments and/or enable market researchers to identify which user segments (age, gender, region, etc.) exhibited which preferences (behavior; Onoe et al.: Figure 11 as shown above); the resultant system further “reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel.” (Dahan et al.: Abstract).

Regarding Claim 3 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept characteristics are presented to and utilized by users in making their product concept preferences “known” (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13). Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types (“It is natural to extend these efforts to products outside of the traditional Internet domain.”, Paragraph 3, Page 3) making the system capable of testing any of a plurality of new or improved products each with its own set of relevant features, performance metrics, and the like to be tested and evaluated (“The future of the virtual approach to product concept testing is quite

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promising. Firms can quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches.”, Paragraph 3, Page 20).

Dahan et al. does not expressly teach the specific computer product characteristics as claimed.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) that a user would utilize as part of their product evaluation and testing process. Personal computer systems (products), for example, are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties, and the like while food products maybe evaluated on a taste, freshness or a host of other relevant metrics.

Further it is noted that the specific product characteristics metrics as claimed are non-functional matter and as such represent unpatentable subject matter. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics upon which products can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. was utilized to test and evaluate any of a plurality of products and that each of the products or product categories tested and evaluated would implicitly have a plurality of specific characteristics that would be included in the system and form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) thereby enabling the system and companies to "...quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches." (Paragraph 3, Page 20).

Regarding Claim 4 Dahan et al. teach an Internet-based product evaluation and testing method and system comprising:

- sending (transmitting) product information (data, size, color, shape, etc..) that may satisfy market needs before a company produces or sells the product (new products, product concepts; Abstract; Figure 3 and 4 as shown above);
- developing the product concept having the product configuration and/or characteristics (color, shape, performance, etc.) that represent the "best" design based on the replies/responses of users (preferences; Paragraph 2, Page 2; Paragraph 3, Page 20; Figure 1 as shown above); and
- selling the developed products on the market (profit maximization, market share predictions, Figure 1 as shown above; Pages 1-2; Page 4; Table 5).

Dahan et al. does not expressly teach the utilization of electronic mail (email) for communicating with users (study/test participants) or selecting a product based on user access frequencies as claimed.

Onoe et al. teach a network marketing research system wherein a plurality of user information is collected, analyzed and reported on, including user access frequencies (Abstract) and that such information is better than other marketing research methods/techniques (Column 2, Lines 4-16 and 38-68; Figure 1 as shown above).

Onoe et al. further teach a network marketing research system wherein user information comprises data such as web page viewing statistics (viewing times, access frequencies, access time) and user demographic information (age, region, gender, etc.; Column 1, Lines 38-61; Column 2, Lines 4-16; Figures 2-6) and that this and other user information collected enables the system to analyze and investigate such things as “how many minutes were spent reading a page...which pages did not leave an impression...obtain detailed information which could not be obtained through the market research method of counting the number of clicks or through questionnaires” (Column 2, Lines 4-16; Column 3, Lines 1-46; Column 4, Lines 2-40; Column 13, Lines 9-68).

Onoe et al. further teach a network marketing research system wherein user information can be collected, captured and analyzed from a plurality of sources including but not limited to electronic mail (Column 2, Lines 37-46; Figure 9).



It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have utilized a plurality of marketing research tools, techniques and methods relating to product concept testing and evaluation including the ability to evaluate product concepts based on a plurality of user behaviors such as the amount of interest shown in a particular product concept (i.e. the amount of time viewing product pages) in view of the teachings of Onoe et al.; the resultant system providing market researchers additional information for gauging the potential market share of the product concepts being evaluated and tested thereby further "reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel." (Dahan et al.: Abstract).

Official notice is taken that the utilization of electronic mail for conducting surveys is old and well known in the art and provides for the efficient collection of information from a plurality of users. Further it is well known that electronic mail systems (programs; e.g. Microsoft Outlook) support rich-text/HTML emails.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from reaching additional participants (panelists, users, etc.) by utilizing electronic mail to conduct product testing and evaluation wherein the product

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tests and evaluations are in the email or linked from the email to the Internet site (URL) containing the product tests and evaluations.

Regarding Claim 5 Dahan et al. teach an online product testing and evaluation system and method wherein products are developed and sold based all or in part on the preferences expressed by users (study/test participants) as discussed above.

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences Dahan et al. does not expressly teach the utilization of user demographic information as claimed or the utilization of electronic mail (email) for communicating with users (study/test participants).

Onoe et al. teach a network marketing research method and system wherein a plurality of user information, including user demographic information, is collected, analyzed and reported on (Column 2, Lines 40-68; Column 3, Lines 1-46; Column 4, Lines 1-40; Figures 3-4b as show above; Figure 11 as shown above) and that the user information is used to improve (change, evolve, etc.) the product which in the case of Onoe et al. is the web site (Column 9, Lines 55-62; Column 13, Lines 60-64).

Official notice is taken that the development of one or more products for one or more market segments and the utilization of electronic mail for conducting surveys are both old and well known in the art as discussed above.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have utilized a plurality of marketing research tools, techniques and methods relating to product concept testing and evaluation including the ability to evaluate product concepts based on a plurality of user demographics in view of the teachings of Onoe et al.; the resultant system providing market researchers additional information for gauging the potential market share the product concepts being evaluated and tested thereby further "reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel." (Dahan et al.: Abstract).

Further it would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from reaching additional product concept participants (panelists, users, etc.) and utilized electronic mail for conducting product concept testing and evaluation.

Regarding Claim 6 Dahan et al. teach an Internet-based product concept evaluation and testing system and method wherein a plurality of product concept characteristics are presented to and utilized by users in making their product concept preferences "known" (Abstract; Paragraph 3, Page 3; Paragraph 1, Page 13).

Dahan et al. further teach that the system and method for product concept evaluation and testing is applicable to any of a plurality of product types as discussed above.

Dahan et al. does not expressly teach the specific computer product characteristics (processor speed, warranty, etc.) or the utilization of electronic mail (email) for communicating with users (study/test participants) as discussed above.

Official notice is taken that it is old and very well known in the art that various products have a plurality of product characteristics (attributes) of which a user would utilize as part in the product evaluation and testing process. Personal computer systems (products), for example, are commonly evaluated based on a plurality of performance metrics such as RAM, ROM, hard drive space, processor speed, monitor size, portability, bundled software packages, warranties, and the like while food products maybe evaluated on a taste, freshness or a host of other relevant metrics.

Further the specific product characteristics metrics as claimed are non-functional matter and as such represent unpatentable subject matter. The product characteristics as claimed merely serve as labels for any of a plurality of product concept characteristics upon which products can be evaluated and tested and a plurality of alternative labels could be utilized without affecting the system's ability to conduct product concept testing and evaluations.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. enables users test and evaluate any of a plurality of products and that each of the product or product category tested and evaluated would implicitly have a plurality of specific characteristics that would form the basis for the product evaluation and testing (e.g. computer product concept having processor speed, warranty, etc) and that the system enables businesses to “....quickly generate multiple virtual prototypes and gather consumer preference data rapidly, and at very low cost. This should encourage a greater degree of parallel prototyping and creativity while enhancing the expected profitability of new product launches.” (Paragraph 3, Page 20).

Official notice is taken that the utilization of electronic mail for conducting surveys is old and well known and the art and provides for the efficient collection of information from a plurality of users. Further it is well known that electronic mail systems (programs; e.g. Microsoft Outlook) support rich-text/HTML emails.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from reaching additional product concept participants (panelists, users, etc.) and utilized electronic mail for conducting product concept testing and evaluation.

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Regarding Claim 7 Dahan et al. teach a network marketing method (product concept evaluation and testing) comprising:

- making product information (data, size, color, shape, etc..) that may satisfy market needs available on a network page (home page, internet site, web page, etc.) before a company produces or sells the product (new products, product concepts; Abstract; Figure 3 and 4 as shown above);

- developing the product(s) concept(s) having the product configuration and/or characteristics (color, shape, performance, etc.) that represent the "best" design as discussed above; and

- selling the developed products on the market (Figure 1 as shown above; Pages 1-2; Page 4; Table 5).

Dahan et al. does not expressly teach the creation or the subsequent sale of a database containing the product and corresponding access frequency information (i.e. user product preferences).

Onoe et al. teach a system and method for capturing (collecting) and analyzing a plurality of Internet user information (e.g. surveys, emails, web page viewing, etc.) in a database (information collector) and that the database is statistically analyzed and reported on (Abstract; Column 2, Lines 4-16 and 38-68; Figures 1, 3, and 9).

Onoe et al. does not expressly teach the sale of the user preferences database.

Official notice is taken that user data such as demographics, shopping behavior, product preferences, credit history and a plurality of other user (consumer) information is collected in databases which are offered for sale to a plurality of companies which use that information for a plurality of purposes (product development, marketing, advertising). For example in the field of direct mail marketing databases are utilized in what is commonly referred to as database marketing to target specific products/offers/promotions to specific user (consumers) or user groups based on the user information contained in the database, the targeted products being of more interest to users and more successful for sellers.

It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from storing the plurality of user information in a database thereby making it easier to share and report on that information in view of the teachings of Onoe et al.

Further it would have been obvious to one skilled in the art at the time of the invention that the market research information collected by the product concept testing and evaluation system as taught by Dahan et al. has value (commercial value) to the company and competitors of the company whose products where evaluated and that

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one would sell the data to any of a plurality of firms or other parties interested in such information.

Regarding Claim 8 Dahan et al. teach a network marketing research method and system that enables Internet-based product concept testing and evaluation as discussed above. Dahan et al. further teach that the product concept testing and evaluation system and method collects "...simple demographic data..." (Paragraph 1, Page 11).

While Dahan et al. teaches the evaluation, development and sale of products which meet customer preferences (needs, wants, achieve market success, etc.) and the collection of demographic data Dahan et al. does not expressly teach the utilization of user demographic information or subsequently that the product and access frequency information database is segmented by the demographic information as claimed.

Onoe et al. teach a network marketing research method and system wherein a plurality of user information, including user demographic information, is collected (in a database), analyzed and reported on (Column 2, Lines 40-68; Column 3, Lines 1-46; Column 4, Lines 1-40; Figures 3-4b as shown above; Figure 11 as shown above) and that information is used to improve (change, evolve, etc.) the product which in the case of Onoe et al. is the web site (Column 9, Lines 55-62) as discussed above.



It would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have utilized a plurality of marketing research tools, techniques and methods relating to product concept testing and evaluation including the ability to evaluate product concepts based on a plurality of user demographics in view of the teachings of Onoe et al.; the resultant system providing market researchers additional information for gauging the potential market share of the product concepts being evaluated and tested thereby further "reducing the uncertainty and cost of new product introductions by allowing more ideas to be concept tested in parallel." (Dahan et al.: Abstract).

Official notice is taken that user data such as demographics, shopping behavior, product preferences, credit history and a plurality of other user (consumer) information is collected in databases which are offered for sale to a plurality of companies which use that information for a plurality of purposes (product development, marketing, advertising). Accordingly it would have been obvious to one skilled in the art at the time of the invention that the method for Internet-based product concept testing as taught by Dahan et al. would have benefited from storing the plurality of user information in a database thereby making it easier to share and report on that information in view of the teachings of Onoe et al. and that the database of user information has commercial value parties interested in the user preferences information (e.g. advertisers).

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Regarding Claim 9, claim 9 recites similar limitations to Claims 4, 6, and 7 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 4, 6, and 7.

Regarding Claim 10, claim 10 recites similar limitations to Claims 4 and 7 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 4 and 7.

Regarding Claim 11, claim 11 recites similar limitations to Claims 4, 7 and 8 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 4, 7 and 8.

Regarding Claim 12, claim 12 recites similar limitations to Claims 4, 7 and 9 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 4, 7 and 9.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Frost, W. Alan, U.S. Patent No. 5,041,972, teaches a system and method for determining how consumers "will react to the introduction of new products to the market or to changes in the characteristics or image of an existing product" and that such a system can be used to "...conduct research with respect to any of a vast array of consumer goods and services." Frost further teaches that the system and method for product concept testing "...creates models which simulate markets and market segments so that proposed products or new changes to existing products can be evaluated..."

- Sack, Michael, U.S. Patent No. 5,124,911, teaches a method and system for conducting product testing and evaluation prior to the sale/introduction of the actual product. Sack further teaches that the product concept testing and evaluation system captures user product preferences utilizing multi-attribute evaluations the results of which are utilized by businesses to "...create products specifically tailored to satisfy..." consumers.

- Peters et al., U.S. Patent No. 5,893,098, teach a network based dynamic survey system that utilizes electronic mail to collect survey information from a plurality of survey participants (users).

- Abelow, Daniel H., U.S. Patent No. 5,999,908, teaches a method and system for customer driven product development wherein the system comprises a plurality of

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subsystems (modules) each of which perform key product development activities (processes) including but not limited to market research, product testing, field trials, ongoing product usage (e.g. product/feature access frequency) and the like. Abelow further teaches the importance of initial and ongoing product (concept) testing provides customers with products that meet their current and future needs.

- Hays, Wesley Joseph, U.S. Patent No. 6,865,578, teaches a method and system for conducting marketing research comprising a plurality of market research mediums (web forms, HTML, IVR, CATI, interview, etc.), statistical analysis tools and techniques the results of which are stored and reported from a comprehensive market research database. Hays further teaches the analysis of a plurality of consumer segments from the marketing research database (age, gender, etc.).

- Aaker, David et al., Marketing Research, teach a plurality of key concepts, techniques and methods in marketing research including but not limited to product concept testing and product evaluation and development.

- Weible, Rick et al., Cyber research, teach the old and well-known need for businesses (sellers) to understand "what subset of products should be part of an offer tailored specifically to the customers needs and wants in order to maximize purchases." Weible et al. further teach that online collaborative filtering technologies with their "ever-increasing database of user preferences" and analytical tools create predictions of customers product wants and needs that have direct correlations to marketing research. Weible et al. further teaches that owners of the user preference databases have "something of great value to advertisers."

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- Wyner, Gordon, Collaborative Filtering, teach the comparison of a plurality of marketing research tools (techniques, methods, systems) including but not limited to electronic mail and web-based surveys.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJ  
5/19/2005



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